

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

OMAR HARGROVE, individually
and as administrator of the estate of
Nikeem Omar Hargrove, deceased,
and LATANGE SHERRELL
SMITH, individually and as wrongful
death beneficiary of Nikeem Omar
Hargrove, deceased,

Plaintiffs,

v.

FAIRVIEW OAKS STATION, LLC,
PHILLIPS EDISON & COMPANY,
LTD., THE KROGER COMPANY,
and ABC CORPORATIONS (1-10),

Defendants.

CASE NO.:

NOTICE OF REMOVAL

Defendants FAIRVIEW OAKS STATION, LLC and PHILLIPS EDISON & COMPANY, LTD., by and through undersigned counsel and pursuant to 28 U.S.C. § 1446, hereby file their Notice of Removal of the action now pending in the State Court of Henry County, State of Georgia, Civil Action File No. STSV2023001137, styled as *OMAR HARGROVE, individually and as administrator of the estate of Nikeem Omar Hargrove, deceased, and LATANGE SHERRELL SMITH,*

individually and as wrongful death beneficiary of Nikeem Omar Hargrove, deceased
v. FAIRVIEW OAKS STATION, LLC, PHILLIPS EDISON & COMPANY, LTD.,
THE KROGER COMPANY, and ABC CORPORATIONS (1-10) (the “civil action”),
respectfully showing this Honorable Court as follows:

1. On June 3, 2023, Plaintiffs OMAR HARGROVE, individually and as administrator of the estate of Nikeem Omar Hargrove, deceased, and LATANGE SHERRELL SMITH, individually and as wrongful death beneficiary of Nikeem Omar Hargrove, deceased (“Plaintiffs”) filed the civil action in the State Court of Gwinnett County, State of Georgia. Copies of the Summonses, Complaint, Affidavits of Service, and Answers are attached hereto as “Exhibit A.”
2. In the civil action, Plaintiffs pursue a cause of action for negligence/wrongful death. *See generally* (Complaint).
3. In the civil action, Plaintiffs claim the defendants negligently caused the death of Nikeem Omar Hargrove. Therefore, the amount in controversy exceeds \$75,000.00. (Complaint ¶¶ 3, 24).
4. Because the amount in controversy in the civil action will exceed \$75,000.00, exclusive of interest, costs, and attorney’s fees, the amount in controversy

requirement necessary for removal pursuant to 28 U.S.C. §§ 1332(a), 1441(b) is satisfied.

5. Plaintiffs are citizens of Georgia. (Complaint ¶ 1).
6. At all times material, Defendant Fairview Oaks Station, LLC has been a limited liability company organized under the laws of the State of Delaware with its principal place of business in the State of Ohio; and Defendants Phillips Edison & Company, Ltd. and The Kroger Company have been profit corporations organized under the laws of the State of Ohio with their principal places of business in the State of Ohio.
7. Because the civil action is between citizens of different States, removal on the basis of diversity is proper pursuant to 28 U.S.C. §§ 1332(a), 1441(b).
8. The civil action was commenced in the State Court of Henry County, State of Georgia on June 03, 2023. On June 12, 2023, Plaintiffs filed Affidavits of Service indicating that on June 9, 2023, they had served the registered agents of Defendants Fairview Oaks Station, LLC and Phillips Edison & Company, Ltd. with a copy of the Summons and Complaint. Accordingly this notice is timely filed pursuant to 28 U.S.C. § 1446(b) (1) and Fed. R. Civ. P. 6(a) (1) (C).

9. Pursuant to 28 U.S.C. § 1446(d), Defendants Fairview Oaks Station, LLC and Phillips Edison & Company, Ltd. have provided written notice to all adverse parties and have filed a copy of this Notice of Removal with the Clerk of the State Court of Henry County, State of Georgia (a copy of the Notice of Filing Notice of Removal submitted to the Clerk of the State Court of Henry County, State of Georgia is attached hereto as “Exhibit B”).

WHEREFORE, Defendants Fairview Oaks Station, LLC and Phillips Edison & Company, Ltd. respectfully submit this matter to this Court’s jurisdiction and remove the civil action to this Court.

Respectfully submitted this 7th day of July, 2023.

**WILSON, ELSER, MOSKOWITZ,
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*Attorneys for Defendants Fairview Oaks
Station, LLC and Phillips Edison &
Company, Ltd.*

CERTIFICATE OF SERVICE

This is to certify that on this date I filed and served the foregoing **NOTICE OF REMOVAL** via e-mail and the Court's electronic filing system, which will send electronic notification to the following counsel of record:

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Dated: July 7, 2023

**WILSON, ELSER,
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/s/ Michael P. Manfredi
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